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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,823	08/20/2003	Rudiger Theis	EP0201365	1822

30008 7590 03/19/2007  
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GERMANY

EXAMINER
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FRANCIS, MARK P

ART UNIT	PAPER NUMBER
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2193

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/604,823	<b>Applicant(s)</b> THEIS, RUDIGER	
	<b>Examiner</b> Mark P. Francis	<b>Art Unit</b> 2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453-O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/21/04</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This action is responsive to the application filed on July 14, 2003.
2. Claims 1-14 have been examined.

***Oath/Declaration***

3. The Office acknowledges receipt of a properly signed oath/declaration filed February 12, 2004.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

5. A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Craig.  
(U.S. Pat 6,266,809)

**Independent claims**

With respect to claims 1 and 8, Craig discloses a method for performing an update of a program in a program-controlled device(Col 3:25-45, "...updating the firmware of a network computer...") that comprises a network connector (Col 7:49-60, "...connector

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A...the network computer...")and has Web server functions(Col 7:1-14, "...the server determining if the network computer..." ) and is accessible via a Web browser, (Col 6:20-35, "...after the network computer has downloaded..." ) wherein the method comprises the steps of: requesting with the device, initiated by the Web browser, update information for an update of a program of the program-controlled device from a Web server;(Col 6:1-15, "...The initialization process of the networked computer..." ) downloading the update information from the Web server on the program-controlled device; (Col 6:20-35, "...the networked computer has downloaded the update boot image..." ) transferring the update information downloaded on the program-controlled device by the program-controlled device to the Web browser; (Col 6:19-35, "...downloaded to the network computer..." ) caching the update information by a program code executable in the Web browser;(Col 7:30-45, "...When the server receives the signal from the network computer that the update boot image..." ) and programming the update information into the program-controlled device by the program code executable in the web browser. (Col 7:50-67, "...then the network computer notifies the server..." )

With respect to claim 12, Craig discloses a program code executable in a Web browser Col 6:20-35, "...the networked computer has downloaded the update boot image..." )

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and configured to cache(Col 5:30-37, "...may include cache such as an L2 cache...")  
update information received via a program-controlled device Col 7:30-45, "...When the  
server receives the signal from the network computer that the update boot image...")  
and to program the update information that has been cached into the program-  
controlled device. (Col 5:30-37, "...may include cache such as an L2 cache...",Col  
7:50-67, "...then the network computer notifies the server...")

### **Dependent claims**

With respect to claims 2,10, and 13, the rejection of claims 1, 8 and 12 are incorporated  
respectively and further, Craig discloses that the program code executable in the Web  
browser is a Java applet. (Col 2:1-5, "...independent applets...")

With respect to claim 3, the rejection of claim 1 is incorporated and further, Craig  
discloses further comprising the steps of storing the program code executable in the  
Web browser in the program-controlled device and making available the program code  
to the Web browser by the program-controlled device for a duration of an update that is  
performed. (Col 15-25, "...The network server then waits...")

With respect to claim 4, the rejection of claim 1 is incorporated and further, Craig  
discloses further comprising the steps of storing the program code executable in the  
Web browser in a Web server and making available the program code to the Web

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browser by the program-controlled device. (Col 3:38-45, "...which update firmware in a network computer...")

With respect to claim 5, the rejection of claim 1 is incorporated and further, Craig discloses that the trivial file transfer protocol (TFTP) is employed in the step of programming. (Col 2:30-35, "...Trivial File Transfer Protocol...")

With respect to claims 6 and 11, the rejection of claims 1 and 8 are incorporated respectively and further, Craig discloses that further comprising the steps of checking with at least one of the program code executable in the Web browser and the program-controlled device at least one of completeness or error-freeness of the update information before the step of programming the update information into the program-controlled device and, when an error is detected, carrying out error elimination with at least one of the program code executable in the Web browser and the program-controlled device. (Col 6:50-62, "...If the update was not successful...")

With respect to claim 7, the rejection of claim 1 is incorporated and further, Craig discloses that, in the step of programming the update information into the program-controlled device, a user input the scope of the program code executable in the Web browser is enabled. (Col 7:15-25, "...if the user is not absent..."0

With respect to claim 9, the rejection of claim 8 is incorporated and further, Craig

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discloses that the stored program code executable in the Web browser is made available to the connected Web browser for carrying out an update of the at least one program. (Col 3:38-45, "...which update firmware in a network computer...")

With respect to claim 14, the rejection of claim 12 is incorporated and further, Craig discloses configured to check the update information received via the program-controlled device for at least one of completeness and error-freeness and configured to perform error elimination, when an error has been found, before programming the update information into the program-controlled device. (Col 6:50-62, "...If the update was not successful...")

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark P. Francis whose telephone number is (571)272-7956. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai T.An can be reached on (571)272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark P. Francis

Patent Examiner

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MENG-AL T. AN  
SUPERVISORY PATENT EXAMINER  
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